Per G.S. SINGHVI, CJ

In this petition, the petitioner has prayed for quashing order dated 06.01.2006 passed by the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad (for short 'the State Commission') and for grant of other appropriate relief.

The Facts:

Respondent Nos. 3 to 6 filed a complaint before the District Consumer Disputes Redressal Forum, Ranga Reddy District (for short 'the District Forum') under Section 12 of the Consumer Protection Act, 1986 (for short 'the Act') alleging therein that due to failure of the management of HMT Limited to deduct premium of Rs.192.90 per month from the salary of husband of respondent No.3, his Life Insurance Policy bearing No.640346028 lapsed and, therefore, they are entitled to a compensation of Rs.14,673/- towards paid-up value of the policy.

Notice of the complaint was duly served on the management of HMT Limited, but no one appeared on its behalf. Therefore, after considering the documents produced by the complainants (respondent Nos. 3 to 6 herein), the District Forum directed the management to pay Rs.15,327/- with interest at the rate of 12% per annum from May,1993 till the date of realization. The District Forum also awarded costs of Rs.1,000/- to the complainants.

Dissatisfied with the order of the District Forum, respondent Nos. 3 to 6 filed an appeal under Section 15 of the Act with the prayer that the management may be directed to pay the amount in lieu of the policy of Group Insurance and Postal Endowments Assurance.

Notice of the appeal was duly served on General Manager, HMT Unit, Hyderabad, but no one appeared on his behalf. Therefore, the State Commission ordered ex parte proceedings against him. After hearing the counsel for the appellants (respondent Nos. 3 to6 herein) and advocates representing respondent No.4, the State Commission allowed the appeal vide its order dated 25.04.2005, and directed opposite party No.1 (petitioner herein) to pay the amount covered by Group Insurance Policy No.86669 and Postal Endowments Assurance No.AP/4470-UC with interest at the rate of 9% per annum.

After eight months of disposal of the appeal filed by respondent Nos. 3 to 6, the petitioner filed an application for recall of order dated 25.04.2005. Para 4 of the application filed on behalf of the petitioner for setting aside the ex parte order reads as under:

> "It is submitted that the Petitioner Unit was closed w.e.f. 31.12.2000 due to financial crises. Thereafter most of the employees were opted for VRS and the remaining employees were transferred to other Units as such there was no person to look after the day to day affairs of the Petitioner Unit. It appears that the Petitioners are not followed the matter with their Advocates. The Jr Counsel who is looking the day to day proceedings had not carry forward the Appeal date in his Dairy due to over sight as such the Counsel for the Petitioner was also not aware of the passing of the exparte order dated 25.04.2005. The failure in not representing before this Hon'ble Commission is neither willful nor wanton but for the reasons stated above. In view of the aforesaid circumstances there is a delay of 181 days in filing the present Application. The Hon'ble Commission be pleased to condone the delay of 181 days in filing the petition to set aside the ex parte orders in the interest of justice and equity."

By an order dated 06.01.2006, the State Commission refused to recall the ex parte order by observing that it does not have the power of review. For taking this view, the State Commission relied on the judgment of this Court in **Eureka Estates Private Limited v. A.P. State Consumer Disputes Redressal Commission, Hyderabad.**

We have heard learned counsel for the parties and perused the record. Before adverting to the question whether the application filed on behalf of the petitioner for recall of order dated 25.04.2005 could be treated as a review petition and the State Commission had rightly dismissed the same on the ground of want of jurisdiction, we deem it proper to mention that in furtherance of order dated 15.02.2006 passed by this Court, respondent Nos. 3 to 6 have withdrawn the amount deposited by the petitioner with the State Commission.

Reverting to the question whether the application filed on behalf of the petitioner for setting aside ex parte order/recall of order dated 25.04.2005 could be treated as an application for review and dismissed on the ground that the State Commission does not have the power to review its orders, we find that there is no provision in the Act under which District Forum or State Commission can review their orders, but the power to set aside an ex parte order is always incidental or ancillary to the exercise of jurisdiction by District Forum or State

Commission. For taking this view, we can usefully draw support from the observations made by the Supreme Court in **Grindlays Bank Limited v. Central Government Industrial Tribunal**. In that case, the Supreme Court specifically considered the question whether an ex parte award can be set aside by the Industrial Tribunal. Their Lordships answered the question in affirmative and held:

> "It is true there is no express provision in the Act or rules giving the Tribunal jurisdiction to set aside an ex parte award. But it is a well-known rule of statutory construction that a Tribunal or body should be considered to be endowed with such ancillary or incidental powers as are necessary to discharge its functions effectively for the purpose of doing justice between the parties. In a case of this nature, the Tribunal should be considered as invested with such incidental or ancillary powers unless there is any indication in the statute to the contrary. There is no statutory prohibition."

In view of the above, the writ petition is allowed. Order dated 06.01.2006 passed by the State Commission is set aside with a direction to decide the fresh application dated 31.12.2005 filed on behalf of the petitioner for setting aside ex parte proceedings. We hope and trust that the State Commission will dispose of the matter as early as possible, but latest within a period of three months from the date of receipt of copy of this order.

As a sequel to disposal of the writ petition, W.P.M.P.No. 1718 of 2006 filed by the petitioner is disposed of as infructuous.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

17.04.2006

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